IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Reserved On :25.09.2025
CRR-2406-2025 (O&M)
Date of decision: 13.10.2025

Sanjay ...Petitioner

VERSUS

State of Haryana ...Respondent

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Vipin Kumar, Advocate for the petitioner.

Dr. (Ms.) Malvika Singh, DAG Haryana.

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VINOD S. BHARDWAJ, J.

1. The present petition raises a challenge to the judgement dated 07.08.2025 passed by the Additional Sessions Judge, Hisar as well as to the judgement and order dated 12.02.2020 passed by the Judicial Magistrate 1st Class, Hisar in case bearing FIR No. 258 dated 18.11.2016 registered under Sections 279, 337, 304-A, 427 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and Sections 181, 192 of the Motor Vehicles Act, 1988 registered at Police Station Adampur, District Hisar whereby the petitioner was convicted for the commission of the aforesaid offences and was sentenced as under:

For the commission of offence under Section 279 of I.P.C.	Simple imprisonment for a period of six months
For the commission of offence under Section 337 of I.P.C.	Simple imprisonment for a period of six months

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For the commission of offence under Section 304-A of I.P.C.	Rigorous Imprisonment for a period of two years and fine of Rs.3000/-
For the commission of offence under Section 427 of I.P.C.	Simple imprisonment for a period of six months

2. Briefly stated, the case of the prosecution and the sequence of events leading to the filing of the present petition are that on 17.11.2016, the Police Control Room, Hisar, received information regarding the admission of one Balbir, son of Munshi Ram, to AMC Hospital, Hisar, on account of injuries sustained in a roadside accident. On the following day, i.e., 18.11.2016, Sub-Inspector Phool Kumar visited AMC Hospital and collected the Medico-Legal Report (MLR) and *rukka* from the attending doctor, who declared the injured unfit to make a statement.

3. At the hospital, Satish, son of the injured Balbir, recorded his statement, stating that his father earned his livelihood by operating a pushcart (rehri) at Kabrel bus stand, where Satish used to assist him after school hours. On 17.11.2016, around 7:30 P.M., Balbir had gone near the shop (khokha) of Vikas, son of Satbir, to relieve himself, while Satish remained at the pushcart. In the meantime, a vehicle bearing registration number HR 44 E 0207, driven rashly and negligently from the direction of Dobhi, struck Balbir, causing him multiple grievous injuries. The said vehicle further rammed into Vikas's khokha. Satish and Vikas rushed to the spot, but the driver fled, abandoning the vehicle. Later, Satish came to know that the driver was Sanjay, son of Phool Singh. It was alleged that Sanjay,

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by his rash and negligent driving, caused injuries to Balbir and damage to Vikas's khokha. Satish accordingly sought legal action.

4. During investigation, the police prepared the site plan, recorded the statements of witnesses, and arrested the accused. In the meantime, Balbir succumbed to the injuries sustained in the accident, whereupon Section 304-A IPC was added. As the accused failed to produce the Registration Certificate of the offending vehicle and his driving licence, Sections 181 and 192 of the Motor Vehicles Act were also invoked. Upon conclusion of investigation, challan was presented before the Court by the SHO, Police Station Adampur.

5. The petitioner was convicted and sentenced as stated above for the commission of the aforesaid offences vide order dated 12.02.2020 passed by the Judicial Magistrate 1st Class, Hisar.

6. Aggrieved of the aforesaid judgement of conviction and order of sentence, the petitioner preferred an appeal before the Court of Additional Sessions judge, Hisar bearing Criminal Appeal No. CRA/133/2020. After hearing learned counsel representing the respective parties, the Sessions Judge recorded as under:

> *"12. I have carefully perused and scrutinized the evidence of prosecution. From the above evidence of the prosecution, it is clear that prosecution has successfully connected the accused with the offence. The two cardinal principles of criminal jurisprudence are that the prosecution*

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must prove its case against the accused beyond shadow of reasonable doubt and the onus to prove the guilt of the accused is on prosecution and it never shifts. The prosecution has to stand on its own legs to bring home the guilt to the accused conclusively and affirmatively and it cannot take advantage of any weakness in the defence version. The intention of the legislature in laying down these principles has been that hundreds of guilty persons may got Scot free but even one innocent should not be punished. In light of these principles, I proceed to determine the criminal liability of accused.

13. Assailing the impugned judgment of conviction dated 12.02.2020 and order of sentence dated 13.02.2020, counsel for the accused argued that the learned Trial Court has misconstrued the evidence on file and has jumped over certain conclusions without any basis. This case was registered on a complaint made by PW-6 Satish who alleges himself to be an eye witness to the accident. No Test Identification Parade of the accused was got conducted by the police. Accused was first time identified by PW-6 Satish in the court. The identification of the accused for the first time in the court will not serve any purpose and is meaningless. Prosecution has, thus, failed to establish the identity of the accused.

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14. The machinery of criminal law was set in motion on the basis of a statement made by the complainant, namely Satish (examined as PW6 during trial). In his detailed statement recorded by the police, marked as Ex.PW6/A, Satish categorically asserted that the driver of the offending vehicle, bearing registration number HR 44E-0207, was driving in a rash and negligent manner and, as a result, struck his father, causing him serious injuries. Satish further stated in his police statement that, upon inquiry, he came to know that the driver of the said vehicle was one Sanjay, son of Phool Singh. Subsequently, during the trial proceedings, complainant Satish stepped into the witness box and deposed as PW-6. In his testimony before the Court, he reiterated and reaffirmed the factual assertions made in his police statement. He stated on oath that on the evening of 17.11.2016, he was present along with his father near their pushcart (rehri), which they used to operate at the bus stand in Kabrel. According to him, his close friend Vikas was also present at the spot at that particular time. He deposed that his father had proceeded towards the nearby khokha (a small roadside stall) of Vikas to relieve himself, and at that very moment, a vehicle specifically a Pick-up van bearing registration No. HR 44E-0207 approached from the side of Dobhi and was being driven in an

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extremely rash and negligent manner. The said vehicle directly hit his father, resulting in severe injuries. Satish went further to state that he had witnessed the entire incident unfold before his eyes and that he could clearly identify the driver of the offending vehicle. He pointed to the accused, Sanjay (present in Court), and identified him as the individual who was driving the said vehicle at the time of the accident. His version with respect to the identity of the accused and the manner of driving was fully corroborated by PW-7, Vikas, who also entered the witness box and identified the accused Sanjay as the driver of the offending vehicle. Vikas supported the prosecution's version and confirmed that the accused was indeed driving in a rash and negligent manner at the time of the incident. During the course of arguments, the learned counsel for the appellant/accused attempted to raise certain doubts over the prosecution version, primarily by pointing to the time and visibility conditions at the scene of the incident. He argued that since the incident took place in the month of November, at around 7:30 P.M., it would have been dark by then, as the sun sets early during that season. Therefore, according to him, it was not proved beyond reasonable doubt that the complainant Satish and his friend Vikas could have actually seen and identified the accused at the time of the occurrence. However,

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this argument advanced by the learned counsel for the appellant is wholly without merit and cannot be accepted. A bare perusal of the complainant's statement, Ex.PW6/A, clearly reveals that after striking his father, the offending vehicle did not merely pass by, but actually crashed into the khokha located nearby and became entangled in it. It has been further stated that the accused, who was driving the said vehicle, alighted from it and then fled from the spot. The very nature and manner of the accident — where the vehicle hit a person, then struck a stall, and became stuck —demonstrates that the sequence of events would not have allowed the accused to flee immediately. Rather, there was sufficient opportunity and time for the complainant Satish and his friend Vikas to observe the accused and take note of his appearance. In fact, as is evident from the police proceedings, the offending vehicle was recovered from the spot itself. It had been abandoned by the accused in a damaged state, embedded in the khokha after striking the victim. This provided a clear window of opportunity for the witnesses to see the driver and subsequently identify him. Both Satish and Vikas, who were natural witnesses and present at the scene of occurrence, were subjected to lengthy and detailed cross-examinations during trial. However, despite the vigorous cross-examination,

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nothing substantial or material emerged to discredit their testimony or create reasonable doubt regarding the identity of the accused or the manner in which the incident occurred. Another argument put forth by the defence counsel was that no Test Identification Parade (TIP) had been conducted by the police during investigation, and hence the accused was entitled to the benefit of doubt on this ground alone. However, this contention also does not hold any legal weight. The law is well-settled on this aspect. In the present case, both key prosecution witnesses PW-6 Satish and PW-7 Vikas have clearly and unequivocally identified the accused Sanjay in open court as the person who was driving the vehicle at the relevant point in time. Their identification in court is direct and categorical. In support of this position, reliance may be placed upon the judgment of the Hon'ble Supreme Court in Ravi Kapur v. State of Rajasthan, [2012 AIR (SC) 2986], wherein it was held that identification of the accused in court is valid and admissible in law, and that it is not always mandatory that such identification must be preceded by a Test Identification Parade. The Court further observed that the absence of a TIP does not render the prosecution case weak or unreliable, especially when the witnesses have had ample opportunity to observe the accused and subsequently identify

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him with confidence during the trial. Therefore, merely because no Test Identification Parade was conducted during the investigation does not ipso facto entitle the accused to the benefit of doubt. The identity of the accused, Sanjay, has been clearly and convincingly established by the prosecution through the consistent and corroborated testimonies of eye-witnesses Satish and Vikas. There is nothing on record to suggest that these witnesses had any motive to falsely implicate the accused, nor has any such suggestion been substantiated during cross-examination. In light of the foregoing, the Court is of the considered view that the prosecution has successfully proved the identity of the accused beyond reasonable doubt. The accused Sanjay cannot claim any benefit of doubt on this issue. His role as the driver of the offending vehicle involved in the accident stands clearly established.

15. Now we shall examine the second aspect of the case. In order to establish criminal liability the "rash or negligent" act by the accused is to be established the prosecution. The prosecution has to prove that that the negligence or rashness of the accused went beyond a mere matter of civil liability and he showed such disregard for life and safety of others as to amount to a crime. In case titled

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Mohammed Aynuddin @ Miyam vs State of Andhra 2000(3) RCR (Crl.) 619*, the Apex Court has held that:*

> *"It is wrong proposition that for any motor accident, negligence of driver should be presumed. To constitute either of the offence under section 279 IPC or section 304-A IPC, the proof of criminal rashness or criminal negligence is essential. Even in ordinary parlance 'negligence' connotes want of proper care and 'rashness' conveys the idea of recklessness or doing of an act without due consideration. The rashness or negligence must be described as criminal rashness or criminal negligence. "*

16. The learned counsel for the appellant/accused has contended that the mere deposition of the eye-witnesses is insufficient to conclusively establish that the accused was driving the vehicle in a rash and negligent manner. However, I find no merit in this contention. In the present case, the prosecution's consistent case is that the deceased Balbir was proceeding from his pushcart (rehri) towards the khokha of Vikas to attend to the call of nature when he was hit by the vehicle driven by the accused in a rash and negligent manner. This version of events is corroborated by the site plan placed on the record as Ex.PW3/E. The site plan clearly marks point

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'A' as the place where the deceased was struck by the vehicle. Notably, point 'A' is situated on the side of the road, an area typically used by pedestrians. It is important to highlight that the accused has not taken any specific defence to the effect that the deceased was crossing the road recklessly, walking in the middle of the road, or that he had suddenly come in front of the vehicle. There is no suggestion from the defence that the deceased contributed to the accident in any manner. On the contrary, it is clearly evident from the site plan and the testimonies on record that the deceased was walking on the side of the road, in an area normally occupied by pedestrians. Moreover, the site plan also indicates that the location of the accident was surrounded by several shops, stalls, and hawkers on both sides of the road, suggesting that it was a congested or densely populated commercial area. In such surroundings, a higher degree of caution and vigilance is expected from any person driving a motor vehicle. The legal position is well established that when a driver is operating a vehicle in a crowded or busy locality, the standard of care required is considerably higher, and any deviation from that duty amounts to negligence. Driving in a rash and negligent manner in a busy area enhances culpability. In the present case, both key witnesses the complainant Satish (PW-6) and Vikas (PW-7)

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have consistently deposed regarding the rash and negligent driving of the accused. Their depositions have remained unshaken during cross-examination. The accused has not raised any plea of sudden mechanical failure, poor visibility, or any other mitigating circumstance that could absolve him of criminal liability. In the absence of any such defence and in light of consistent ocular evidence and corroborative documentary proof, the prosecution has clearly succeeded in proving the elements of rashness and negligence on part of the accused. Therefore, the issue of rash and negligent driving stands duly established on record. There remains no doubt that the deceased Balbir succumbed to the injuries sustained in this accident.

17. The learned counsel for the accused has also advanced an argument that the deceased, Balbir, had voluntarily left medical treatment midway, allegedly against the advice of the attending doctors. It was thus suggested that the death of the deceased cannot be directly attributed to the accident, and that had he continued his treatment, he might have survived. While this argument may appear plausible at first glance, a deeper scrutiny of the medical evidence completely undermines its foundation. The medical records on file, including the Medico Legal Report (MLR) marked as

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Ex.PW1/B, clearly reflect the grievous and severe nature of the injuries sustained by the deceased. Additionally, the post-mortem report of deceased Balbir, marked as Ex. PX, clearly attributes the cause of death to complications arising from the injuries sustained over his body. It is further observed in the post-mortem report that viscera samples were preserved and sent to Karnal for chemical analysis. The defence has pointed out that there is no Forensic Science Laboratory (FSL) report available on record. However, this omission does not, in any manner, weaken the prosecution's case. The absence of the FSL report does not take away the probative value of the post-mortem findings. The doctors who conducted the post-mortem have categorically opined that the death occurred due to trauma and complications from the physical injuries sustained in the accident. The injuries were not superficial or minor in nature but were of such gravity that they led to fatal complications, as explicitly stated in the post-mortem report. It is a settled proposition of law that once it is established that the injuries caused in an accident were serious and ultimately led to the death of the victim, the question of whether the deceased continued treatment or discontinued it becomes immaterial in establishing criminal liability. Negligence cannot be diluted or disregarded merely because the victim

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chose not to continue medical treatment. In light of the above, the post-mortem report Ex. PX, which is a scientific and neutral piece of evidence, clearly supports the conclusion that the death of Balbir was directly linked to the injuries suffered in the accident. The nature of injuries, their severity, and the timing of death all support the prosecution's case. Accordingly, the argument advanced by the learned defence counsel in this regard is rejected as being devoid of merit and unsupported by the medical evidence on record.

18. The prosecution case is also strengthen by the official witness PW-5 EASI Amrik Singh, who mechanically examined the offending vehicle bearing registration No. HR 44 E-0207 and proved his report as Ex.PW5/A. As per his report the left side head light and indicators of both sides were found broken, bumper of left side was found broken and was found separate from the vehicle, there was bend in left mudguard and in show net and bonnet, front mirror was found badly damaged as well as the left light and there is bend in the body of the vehicle, fan is found broken and pipes were found damaged. The vehicle was not found in the running condition. Hence, from the report of the mechanical examiner it is proved that the vehicle taken in police custody is held responsible for causing the death of Balbir. Further, how his vehicle

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(offending vehicle) was broken is not explained by the accused. Therefore, from the testimonies of the complainant Satish PW-6, eye-witness Vikas PW-7 coupled with the mechanical report Ex.PW5/A and site plan Ex.PW3/A, this fact stands proved that the deceased Balbir was hit by the vehicle bearing registration No. HR 44 E/0207 being driven in a rash and negligent manner and injured Balbir succumbed to the injuries caused by this collision. The driver of the offending vehicle is duly identified by the complainant and eye witness.

19. Further, the counsel for the appellant/ accused has failed to convince this court about any reasons as to why the prosecution witnesses will try to falsely implicate the accused in the present case.

20. Further the testimony of above witnesses stands corroborated in the testimony of by PW-3 HC Vipin Kumar, who had recorded the statement of complainant Satish Ex.PW3/B and besides proving the other investigation proceedings he proved the FIR Ex.PW3/C, endorsement Ex.PW3/D, site plan Ex.PW3/E, recovery memo of vehicle No. HR 44E0217 Ex.PW3/F and proceeding under Section 174 Cr.P.C. Ex.PW3/G.

21. No other point was raised or argued before me.

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22. Thus, from the evidence on file, it stands proved that on 17.11.2016, at 7:30 P.M., accused drove his vehicle bearing registration No.HR 44E/0207 in a rash and negligent manner and hit Balbir who sustained multiple injuries and lateron succumbed to the injuries received in the accident. In view of the reasons as mentioned above, I do not find any ground to differ with learned Trial Court and the judgment of conviction dated 12.02.2020 stands affirmed.

23. So far as the quantum of sentence is concerned, injured Balbir received multiple injuries on his body and lateron he succumbed to his injuries. Therefore, keeping in view the aforementioned facts and circumstances, I find no reason to reduce the sentence awarded to the accused by the learned Trial Court. The order of sentence dated 13.02.2020 is, thus, also affirmed.

24. As a sequel to my above discussion, present appeal is hereby dismissed. The judgment of conviction dated 12.02.2020 and order of sentence dated 13.022020 passed by learned Trial Court stand affirmed. Bail bonds and surety bonds of accused stand cancelled and he be taken into custody to serve the sentence accordingly. Requisite Jail warrants be prepared. Trial Court record with a copy of judgment be sent

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back and appeal file be consigned to records after due compliance."

7. Aggrieved thereof, the instant criminal revision petition has been filed.

8. Learned counsel appearing on behalf of the petitioner has advanced a twofold argument.

9. Firstly, it is submitted that the death of the deceased was not a direct consequence of the accident in question. The deceased, Balbir, had initially been admitted to AMC Hospital, Hisar on 17.11.2016, but left the hospital against medical advice (LAMA) on 23.11.2016. On the same day, he was admitted to Satija Hospital, Hisar, from where he again left against medical advice on 08.12.2016. He was thereafter admitted to MAMCH, Agroha (Hisar), where he expired on 09.12.2016. Learned counsel contends that the persistent shifting of the injured from one hospital to another, coupled with his repeated decision to leave treatment against medical advice, creates a reasonable doubt as to whether the death occurred as a proximate result of the accident or due to intervening medical lapses.

10. Secondly, it is argued that the identification of the petitioner as the driver of the offending vehicle suffers from serious infirmities. No test identification parade was ever conducted during the course of investigation. The complainant, Satish (PW-6), and Vikas (PW-7), an alleged eye-witness, identified the petitioner for the first time during their cross-examination before the Court. Given that the incident occurred in

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November, counsel submits it is highly improbable that the complainant and the witness could have actually recognized the petitioner at the time of occurrence and later identified him in Court without prior identification proceedings. Further, it is contended that both PW-6 Satish and PW-7 Vikas are closely connected to the deceased, being his son and friend respectively, and thus their testimonies cannot be treated as wholly reliable in the absence of corroboration from any independent witness.

11. On the strength of the above submissions, learned counsel argues that no independent evidence has been brought on record to establish that the petitioner was indeed driving the vehicle in a rash and negligent manner. In the absence of proximity between the alleged rash and negligent act and the eventual death of the deceased, the conviction of the petitioner under Section 304-A IPC is unsustainable in law.

12. Learned State counsel, while opposing the submissions advanced on behalf of the petitioner, has vehemently contended that the case at hand involves the unfortunate loss of life of one Balbir, aged about 50 years, who was survived by his wife and four children. It is argued that the family of the deceased has been left to face immense hardship and irreparable loss solely on account of the rash and negligent driving of the petitioner.

13. It is further submitted that although an amount of approximately ₹11,76,000/- was awarded by way of compensation, the offending vehicle was admittedly not insured. Hence, it is highly

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improbable that the family of the deceased actually received such financial assistance. Thus, the argument that the family was duly compensated is wholly untenable.

14. On the facts, learned counsel for the State submits that the deceased was standing across the road when the petitioner, while driving the pick-up truck registered in his own name, came from the side of village Dobhi, crossed over the entire road and, instead of negotiating the turn towards Hisar, hit the deceased. The site plan, it is submitted, clearly demonstrates that the deceased had not contributed to the occurrence in any manner and that the accident was entirely attributable to the rash and negligent act of the petitioner alone.

15. With respect to the medical evidence, it is argued that the deceased remained under continuous treatment for nearly three weeks and ultimately succumbed to his injuries at MAMCH, Agroha, Hisar. The contention that his death was the result of repeated changes in medical treatment is, therefore, unsustainable.

16. It is further contended that the vehicle in question had been released on *supurdari* to the petitioner. At no stage did the petitioner disclose the name of any other person who may have been driving the vehicle at the relevant time. The burden to disclose such a fact squarely lay upon the registered owner once he raised a plea that he was not the driver. Having failed to discharge this burden, the petitioner cannot now take advantage of such a plea.

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17. Learned State counsel has thus argued that no amount of monetary compensation can indemnify the loss of human life, and that the petitioner does not deserve any leniency. The sentence of two years' rigorous imprisonment as awarded by the learned Judicial Magistrate First Class, Hisar, cannot be said to be either excessive or harsh. On the contrary, all relevant factors were duly considered by the trial Court while imposing the sentence.

18. In support of her submissions, reliance has been placed on the judgment of the Hon'ble Supreme Court in ***State of Punjab v. Balwinder Singh & Others*****, (2012) 2 SCC 182**, wherein it was observed that deterrence is one of the prime considerations in sentencing for offences relating to rash and negligent driving, as the alarming rate of motor accidents caused by careless and callous driving demands stern judicial response.

19. It is, therefore, prayed that the revision petition merits dismissal.

20. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the present criminal revision petition.

21. In so far as the submission advanced on behalf of the petitioner, namely, that there was no proximity or causal nexus between the accident in question and the subsequent death of the victim on account of

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his frequent shifting from one hospital to another against medical advice, is concerned, I am unable to persuade myself to accept the same.

22. It is not in dispute that the deceased remained under continuous medical treatment from the date of the accident until his demise. The mere shifting of the injured from one hospital to another cannot, by itself, be construed as an act of negligence attributable to the family of the deceased. Such decisions, as a matter of common experience, may be dictated by a variety of factors ranging from financial constraints, availability of requisite medical facilities, dissatisfaction with the line of treatment, or even the advice and recommendation of acquaintances.

23. For the plea of the petitioner to merit acceptance, it was incumbent upon him to establish, on the strength of medical evidence, that the protective or therapeutic treatment being followed was materially altered, or that any of the hospitals had extended improper or deficient medical care which could have aggravated the injuries and directly contributed to the death. In the absence of any such medical evidence, no presumption can be drawn that the treatment afforded at any stage was inappropriate or that it materially led to the deterioration of the condition of the victim.

24. On the contrary, the record itself reflects that the deceased remained under constant treatment, being admitted in one hospital or another continuously from the date of the accident till his demise. In these

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circumstances, the death must be perceived as proximately linked to, and a direct consequence of, the injuries sustained in the accident itself.

25. In so far as the argument advanced by the learned counsel for the petitioner with regard to the absence of a test identification parade is concerned, it is evident from the judgments rendered by both the Courts below that PW-6, the son of the deceased, who was present at the spot, categorically deposed that on the fateful day his father had gone near the shop (khokha) of PW-7 Vikas to answer a call of nature, while he himself remained at the cart. At that moment, the vehicle bearing registration No. HR-44E-0207, driven rashly and negligently, struck his father, causing fatal injuries. The petitioner, who was driving the said vehicle, fled from the spot. PW-6, as well as PW-7, clearly identified the petitioner in their depositions and affirmed that it was the petitioner who was driving the offending vehicle in a rash and negligent manner.

26. It further stands established that the petitioner himself sought release of the offending vehicle on *supurdari* and had annexed the registration certificate reflecting him to be the registered owner thereof. At no stage did he explain as to who, if not he himself, was driving the vehicle at the relevant time. The mechanical inspection of the vehicle revealed extensive damage including broken headlights and indicators, a damaged bumper, bent mudguard, shattered windscreen, and damage to the bonnet, fan, and pipes, thereby corroborating the occurrence of a violent collision.

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The petitioner could not explain how such damage had been caused if the vehicle had not been involved in the accident in question.

27. The contention of the petitioner disputing his identification as the driver of the offending vehicle is thus wholly untenable. The law is well settled that the testimony of witnesses cannot be discarded merely on the ground that they are related to the deceased. While Courts remain circumspect in evaluating such testimony, the mere fact of relationship cannot be a ground to discredit witnesses. PW-6 was the son of the deceased, assisting his father in his daily vocation, while PW-7 was a neighbouring shopkeeper. Their presence at the spot was most natural, and no evidence of prior enmity, bias, or mala fides has been brought on record to cast doubt on their depositions.

28. The site plan further fortifies the prosecution case. The deceased was standing towards the *kuccha* portion near PW-7's shop, away from the metalled road. The petitioner, while driving a pick-up vehicle, approached from village Dobhi, failed to negotiate the T-point, and crossed the entire width of the road before striking the deceased. Such conduct either indicates high speed or gross lack of control. The doctrine of *res ipsa loquitur* squarely applies and the very manner of accident demonstrates negligence on part of the driver. The deceased, who was merely standing off the road, cannot by any stretch be attributed contributory negligence.

29. In so far as the plea regarding non-establishment of the petitioner's identity is concerned, the same deserves outright rejection. The

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petitioner has not denied ownership of the vehicle. The burden lay upon him to disclose who else was driving the vehicle at the relevant time if not himself. His failure to discharge this burden renders the defence vague and unsubstantiated.

30. Both the Courts below, upon a comprehensive appreciation of the evidence, have concurrently recorded findings of guilt against the petitioner. Such findings cannot be said to suffer from perversity, illegality, or misreading of evidence. In revisional jurisdiction, this Court is not expected to re-appreciate the entire evidence or substitute its own opinion for that of the Trial Court and the Appellate Court. Where the findings are reasonable, probable, and supported by material on record, interference is unwarranted merely because another view is theoretically possible.

31. Accordingly, the contentions advanced on behalf of the petitioner in respect of identification and credibility of witnesses are without merit and are hereby rejected.

32. The above issue was examined by the Hon'ble Supreme Court in the matter of **Soman Vs. State of Kerala, (2013) 11 SCC 382**, the relevant extract of the said judgment is reproduced hereinbelow:-

> *"'15. Giving punishment to the wrongdoer is at the heart of the criminal justice delivery, but in our country, it is the weakest part of the administration of criminal justice. There are no legislative or judicially laid down guidelines to assist the trial court in meting out the just punishment to the accused facing*

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trial before it after he is held guilty of the charges. In State of Punjab v. Prem Sagar (2008) 7 SCC 550, this Court acknowledged as much and observed as under –

> *"2. In our judicial system, we have not been able to develop legal principles as regards sentencing. The superior courts except making observations with regard to the purport and object for which punishment is imposed upon an offender, have not issued any guidelines. Other developed countries have done so. At some quarters, serious concerns have been expressed in this behalf. Some committees as for example Madhava Menon Committee and Malimath Committee have advocated introduction of sentencing guidelines."*

16. Nonetheless, if one goes through the decisions of this Court carefully, it would appear that this Court takes into account a combination of different factors while exercising discretion in sentencing, that is proportionality, deterrence, rehabilitation etc. (See: Ramashraya Chakravarti v. State of Madhya Pradesh (1976) 1 SCC 281, Dhananjoy Chatterjee alias Dhana v. State of W.B. (1994) 2 SCC 220, State of Madhya Pradesh v. Ghanshyam Singh (2003) 8 SCC 13, State of Karnataka v. Puttaraja (2004) 1 SCC 475, Union of India v. Kuldeep Singh (2004) 2 SCC 590, Shailesh Jasvantbhai and

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another v. State of Gujarat and others (2006) 2 SCC 359, Siddarama and others v. State of Karnataka (2006) 10 SCC 673, State of Madhya Pradesh v. Babulal (2008) 1 SCC 234, Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra (2009) 6 SCC 498).

14. In a proportionality analysis, it is necessary to assess the seriousness of an offence in order to determine the commensurate punishment for the offender. The seriousness of an offence depends, apart from other things, also upon its harmfulness. The question is whether the consequences of the offence can be taken as the measure for determining its harmfulness? In addition, quite apart from the seriousness of the offence, can the consequences of an offence be a legitimate aggravating (as opposed to mitigating) factor while awarding a sentence. Thus, to understand the relevance of consequences of criminal conduct from a Sentencing standpoint, one must examine: (1) whether such consequences enhanced the harmfulness of the offence; and (2) whether they are an aggravating factor that need to be taken into account by the courts while deciding on the sentence.

26. Punishment should acknowledge the sanctity of human life. We fully agree.

27. From the above, one may conclude that:

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27.1. Courts ought to base sentencing decisions on various different rationales – most prominent amongst which would be proportionality and deterrence.

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint.

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable. In case of illicit and underground manufacture of liquor, the chances of toxicity are so high that not only its manufacturer but the distributor and the retail vendor would know its likely risks to the consumer. Hence, even though any harm to the consumer might not be directly intended, some aggravated culpability must attach if the consumer suffers some grievous hurt or dies as result of consuming the spurious liquor."

33. The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of the dent in the life of the victims and also the

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social fabric. The same by itself does not oblige the Court to extend opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramification on the victim and the immediate collectives also has to be examined.

34. In the matter of ***State through Central Bureau of Investigation, Anti Corruption Branch, Chandigarh Vs. Sanjiv Bhalla and another*** the Hon'ble Supreme Court had held as under:-

> *"22. It does appear that depending upon the facts of each case, causing death by what appears (but is not) to be a rash or negligent act may amount to an offence punishable under Part II of Section 304 of the IPC, not warranting the release of the convict under probation. There may also be situations where an offence is punishable under Section 304-A of the IPC in an accident "where mens rea remains absent" and refusal to release a convict on probation in such a case may be too harsh an approach to take. An absolute principle of law cannot be laid down that in no case falling under Section 304-A of the IPC should a convict be released on probation. This is certainly not to say that in all cases falling under Section 304-A of the IPC, the convict must be released on probation - it is only that the principles laid down in Sections 360 and 361 of the Criminal Procedure Code and the Probation of Offenders*

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Act should not be disregarded but should be followed and an appropriate decision, depending on the facts of the case, be taken in each case.

23. In Ajahar Ali v. State of West Bengal 19 the appellant was convicted of an offence of outraging the modesty of a woman punishable under Section 354 of the IPC. This was held to be "a heinous crime and with the social condition prevailing in the society, the modesty of a woman has to be strongly guarded" and so the benefit of the Probation of Offenders Act was not given to him. This may be contrasted with Prem Chand and subsequently Dharam Pal where the convict was guilty of a far more serious offence of attempted rape and yet granted the benefit of the Probation of Offenders Act, notwithstanding the nature of the crime, and only because of his age.

24. These decisions indicate that the philosophical basis of our criminal jurisprudence is undergoing a shift - from punishment being a humanizing mission to punishment being deterrent and retributive. This shift may be necessary in today's social context (though no opinion is expressed), but given the legislative mandate of Sections 360 and 361 of the Criminal Procedure Code and the Probation of Offenders Act, what is imperative for the judge is to strike a fine balance between releasing a convict after admonition or on Probation of

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Offenders Act, what is imperative for the Judge is to strike a fine balance between releasing a convict after admonition or on probation or putting such a convict in jail. This can be decided only on a case by case basis but the principle of rehabilitation and the humanizing mission must not be forgotten."

35. It is evident from the discussion and consideration of the arguments advanced by the counsel for the petitioner that both the Courts have duly considered the evidence and arguments. Such concurrent findings cannot be held to be misplaced or without any tangible evidence. The same are not without any evidence or based upon misappreciation or misinterpretation of facts, evidence or law. The findings of conviction as affirmed by the appellate Court are thus upheld.

36. Hence, the criminal revision petition is dismissed to the extent it raises a challenge to the judgments of conviction and dismissal of appeal, the same leads to next question which pertains to the punishment awarded to the petitioner.

37. Counsel for the petitioner contends that the petitioner is a poor person and is the only breadwinner of his family and has 04 minor children to look after. Moreover, his wife has already passed away and there is no other person to take care of the children. It is also submitted that there is nothing on record to suggest that the petitioner was under influence of any intoxicant at the time of accident. It is also argued that the family of the

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deceased has been suitably compensated in the claim petition filed under Section 166 of the M.V. Act, 1988 and a compensation to the tune of Rs.11,76,509/- has been awarded to the family of the deceased.

38. Considering the rival contentions of the parties, as well as the mitigating circumstances including that he petitioner is aged nearly 44 years and single breadwinner of his family and also the fact that he was not driving the vehicle under the influence of any intoxicant, I am of the opinion that the compensation awarded under the M.V. Act, 1988 to the tune of Rs.11,76,509/- has already been awarded, the interest of justice would be well served in case, the sentence awarded by the Courts is modified as under:-

Section(s)	Sentence	Modification
279 of I.P.C.	SI for a period of 06 months	No change
337 of I.P.C.	SI for a period of 06 months	No change
304-A of I.P.C.	RI for a period of 02 years and fine of Rs.3000/-	**RI for a period of 18 months and fine of Rs.3,000/-.**
427 of I.P.C.	SI for a period of six months	No change.

All The sentences shall run currently and in default of fine, to undergo SI further for a period of 01 month. The order for grant of compensation under Section 357 (3) Cr.P.C. is maintained.

39. The present revision petition is ***partly allowed*** in terms as aforesaid.

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40. All other pending misc. application if any shall also stand disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

13.10.2025
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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